

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 22-7063

September Term, 2023

1:13-cv-01215-TSC

Filed On: May 9, 2024

American Society for Testing and Materials, et
al.,

Appellants

v.

Public.Resource.Org, Inc.,

Appellee

BEFORE: Henderson, Pillard, and Katsas, Circuit Judges

O R D E R

Upon consideration of the order to show cause directing the parties to show cause why the sealed portions of the record in this case should not be unsealed, issued pursuant to D.C. Cir. Rule 47.1(f)(1), the joint response to the order, the public addendum attached to the joint response, and the confidential addendum filed as a sealed supplement to the joint response, it is

ORDERED that the order to show cause be discharged. It is

FURTHER ORDERED that the sealed portions of the record that the parties agree may be unsealed shall be unsealed. It is

FURTHER ORDERED that the sealed portions of the record that appellants seek to keep under seal and that (1) appellee Public.Resource.Org consents to keeping under seal, (2) include personal identifying information, or (3) include non-public, commercially sensitive financial data, shall remain sealed. See Joint Response to Order to Show Cause ¶¶ 5, 10-11, 22-23. The sealed portions of the record that were identified by the parties in their Joint Response and that are covered by the above description are:

JA 68-181 (highlighted material)
JA 704-817 (highlighted material)
JA 1100-1103, 1111-1118 (all)
JA 1122-1124 (highlighted material)
JA 1125-1135 (highlighted material)
JA 1136-1148 (highlighted material)
JA 1149-1203 (highlighted material)
JA 1204-1205 (highlighted material)
JA 1206-1207 (highlighted material)
JA 1231-1237 (highlighted material)
JA 1238-1244 (highlighted material)

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JA 1245-1253 (highlighted material)
JA 3929 (all)
JA 7197-7198 (all)
JA 7761-7860 (highlighted material)
JA 8165-8268 (highlighted material)
JA 8270-8296 (all)
JA 8298-8323 (all)
JA 8435-8437 (all)
JA 8438-8439 (all)
JA 8440-8445 (all)
JA 8446-8447 (all)
JA 8448-8449 (all)
JA 8729-8732 (highlighted material)
Appellant's Final Reply Brief (highlighted material)

It is **FURTHER ORDERED** that the sealed portions of the record that appellants seek to keep under seal because they include discussions of competitive strategy shall be unsealed, except insofar as they include personal identifying information or non-public commercially sensitive financial data, which shall remain sealed. See Joint Response ¶¶ 10, 11. The sealed portions of the record that were identified by the parties in their Joint Response as including discussion of competitive strategy are:

JA 1014-1049 (highlighted material)
JA 1104-1110 (all)
JA 1257-1259 (all)
JA 7142-7196 (highlighted material)
JA 8733-8857 (highlighted material)

It is **FURTHER ORDERED** that, within 14 days of the date of this order, the parties are directed to jointly file on the public docket, as a response to this order, redacted versions of the Sealed Appellant Reply Brief filed January 13, 2023, the Sealed Appellant Final Reply Brief filed January 27, 2023, and the Sealed Joint Appendix that redact only the material that may remain under seal according to this order.

The Clerk is directed to unseal and file on the public docket the Sealed Appellee Brief filed November 14, 2022, and the Sealed Appellee Final Brief filed February 3, 2023.

Per Curiam

FOR THE COURT:
Mark J. Langer, Clerk

BY: /s/
Michael C. McGrail
Deputy Clerk